IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

Tr.P(Crl.).No. 67 of 2007()

SC.314/2006 of ADDL. DIST. & SESSIONS COURT (ADHOC)III, PATHANAMTHITTA

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PETITIONER:

SAJITH, AGED 25 YEARS, S/O. SASI,
CHANJAPARAMBIL HOUSE, NEAR TRIPPARA TEMPLE,
VELLAPPARA, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.ABRAHAM SAMSON
SMT.LOVELY SAMSON

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE STATION HOUSE OFFICER, PATHANAMTHITTA POLICE STATION - THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Tr.P.C.No.67 of 2007

Dated this the 25th day of September, 2007

ORDER

The petitioner is the accused in a prosecution for the offence punishable, inter alia, under Section 376 I.P.C. The trial in the case has already commenced. The petitioner has filed this application for transfer with the grievance that certain observations made by the learned Additional Sessions Judge in the course of trial causes apprehension in the mind of the petitioner that he may not get fair trial before that court. This petition was admitted by another Bench. Remarks of the learned Additional Sessions Judge was called for. The learned Additional Sessions Judge has offered remarks denying all assertions and allegations raised.

2. It would appear on reading the entire materials available that the witnesses in a case of rape against a child attempted to turn hostile and the learned Sessions Judge revealed his righteous indignation against such hostility while presiding over the trial.

3. The learned Judge has denied all allegations and imputation made as incorrect and unfounded but has prayed that "in the interests of justice and fair trial, he may be pardoned for requesting the High Court that this case may be transferred to any other court as prayed for".

3. I am not satisfied that the allegations raised against the learned Sessions Judge are true or sufficient to direct a transfer of the case to any other court. But in the light of the request made by the learned Judge that he may be pardoned for requesting the High Court for transferring the case to any other Court, I am satisfied that a transfer can be directed.

4. In the result, this Tr.P.C is allowed. I am satisfied that the transfer need not be directed to any court outside the district of Pathanamthitta. I am satisfied that the Principal Sessions Judge, Pathanamthitta, the seniormost judicial functionary available in the district, can be directed to continue with the trial and dispose of the same as expeditiously as possible.

5. It is directed that S.C.314 of 2006 pending before the Additional District and Sessions (Adhoc-III), Pathanamthitta be transferred to the Principal Sessions Judge, Pathanamthitta. Records shall be forwarded forthwith. The accused shall appear before the learned Principal Sessions Judge on 08.10.07 to continue the proceedings. The Registry shall forthwith communicate the order to both the courts. I expect the learned Principal Sessions Judge to expeditiously complete the trial and report compliance to this Court.

(R.BASANT, JUDGE)

rtr/-